

REFERENCE TITLE: registered domestic partnerships.

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

## HB 2743

Introduced by  
Representatives Sinema, Ableser, Lujan: Campbell CH, Gallardo, Garcia M,  
Lopes, Lopez, Meza, Prezelski

### AN ACT

AMENDING SECTIONS 1-215, 8-103, 20-1104 AND 36-3231, ARIZONA REVISED  
STATUTES; AMENDING TITLE 12, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 21;  
RELATING TO REGISTERED DOMESTIC PARTNERSHIPS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Recognition of the definition of marriage:  
3 recognition of responsibilities, obligations,  
4 duties and protections

5 A. This state recognizes:

6 1. That marriage is between one man and one woman.

7 2. That two unrelated adults who are in a committed relationship and  
8 who share a household should undertake certain responsibilities, obligations  
9 and duties to one another that they should be required to uphold.

10 3. That it is in the interest of the people of this state to encourage  
11 relationships that are responsible, committed and enduring.

12 B. For these reasons this state adopts the following as the registered  
13 domestic partnership act.

14 Sec. 2. Section 1-215, Arizona Revised Statutes, is amended to read:  
15 1-215. Definitions

16 In the statutes and laws of this state, unless the context otherwise  
17 requires:

18 1. "Action" includes any matter or proceeding in a court, civil or  
19 criminal.

20 2. "Adopted rule" means a final rule as defined in section 41-1001.

21 3. "Adult" means a person who has attained ~~the age of~~ eighteen years  
22 OF AGE.

23 4. "Alternative fuel" means:

24 (a) Electricity.

25 (b) Solar energy.

26 (c) Liquefied petroleum gas, natural gas, hydrogen or a blend of  
27 hydrogen with liquefied petroleum or natural gas that complies with any of  
28 the following:

29 (i) Is used in an engine that is certified to meet at a minimum the  
30 United States environmental protection agency low emission vehicle standard  
31 pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

32 (ii) Is used in an engine that is certified by the engine modifier to  
33 meet the addendum to memorandum 1-A of the United States environmental  
34 protection agency as printed in the federal register, volume 62, number 207,  
35 October 27, 1997, pages 55635 through 55637.

36 (iii) Is used in an engine that is the subject of a waiver for that  
37 specific engine application from the United States environmental protection  
38 agency's memorandum 1-A addendum requirements and that waiver is documented  
39 to the reasonable satisfaction of the director of the department of  
40 environmental quality.

41 (d) Only for vehicles that use alcohol fuels before August 21, 1998,  
42 alcohol fuels that contain not less than eighty-five per cent alcohol by  
43 volume.

44 (e) A combination of at least seventy per cent alternative fuel and no  
45 more than thirty per cent petroleum based fuel that operates in an engine

1 that meets the United States environmental protection agency low emission  
2 vehicle standard pursuant to 40 Code of Federal Regulations section 88.104-94  
3 or 88.105-94 and that is certified by the engine manufacturer to consume at  
4 least seventy per cent alternative fuel during normal vehicle operations.

5 5. "Bribe" signifies anything of value or advantage, present or  
6 prospective, asked, offered, given, accepted or promised with a corrupt  
7 intent to influence, unlawfully, the person to whom it is given in that  
8 person's action, vote or opinion, in any public or official capacity.

9 6. "Child" or "children" as used in reference to age of persons means  
10 persons under ~~the age of~~ eighteen years **OF AGE**.

11 7. "Clean burning fuel" means:

12 (a) An emulsion of water-phased hydrocarbon fuel that contains not  
13 less than twenty per cent water by volume and that complies with any of the  
14 following:

15 (i) Is used in an engine that is certified to meet at a minimum the  
16 United States environmental protection agency low emission vehicle standard  
17 pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

18 (ii) Is used in an engine that is certified by the engine modifier to  
19 meet the addendum to memorandum 1-A of the United States environmental  
20 protection agency as printed in the federal register, volume 62, number 207,  
21 October 27, 1997, pages 55635 through 55637.

22 (iii) Is used in an engine that is the subject of a waiver for that  
23 specific engine application from the United States environmental protection  
24 agency's memorandum 1-A addendum requirements and that waiver is documented  
25 to the reasonable satisfaction of the director of the department of  
26 environmental quality.

27 (b) A diesel fuel substitute that is produced from nonpetroleum  
28 renewable resources if the qualifying volume of the nonpetroleum renewable  
29 resources meets the standards for California diesel fuel as adopted by the  
30 California air resources board pursuant to 13 California code of regulations  
31 sections 2281 and 2282 in effect on January 1, 2000, the diesel fuel  
32 substitute meets the registration requirement for fuels and additives  
33 established by the United States environmental protection agency pursuant to  
34 section 211 of the clean air act as defined in section 49-401.01 and the use  
35 of the diesel fuel substitute complies with the requirements listed in 10  
36 Code of Federal Regulations part 490, as printed in the federal register,  
37 volume 64, number 96, May 19, 1999.

38 (c) A diesel fuel that complies with all of the following:

39 (i) Contains a maximum of fifteen parts per million by weight of  
40 sulfur.

41 (ii) Meets ASTM D975.

42 (iii) Meets the registration requirements for fuels and additives  
43 established by the United States environmental protection agency pursuant to  
44 section 211 of the clean air act as defined in section 49-401.01.

1 (iv) Is used in an engine that is equipped or has been retrofitted  
2 with a device that has been certified by the California air resources board  
3 diesel emission control strategy verification procedure, the United States  
4 environmental protection agency voluntary diesel retrofit program or the  
5 United States environmental protection agency verification protocol for  
6 retrofit catalyst, particulate filter and engine modification control  
7 technologies for highway and nonroad use diesel engines.

8 (d) A blend of unleaded gasoline that contains at minimum eighty-five  
9 per cent ethanol by volume or eighty-five per cent methanol by volume.

10 (e) Neat methanol.

11 (f) Neat ethanol.

12 8. "Corruptly" imports a wrongful design to acquire or cause some  
13 pecuniary or other advantage to the person guilty of the act or omission  
14 referred to, or to some other person.

15 9. "Daytime" means the period between sunrise and sunset.

16 10. "Depose" includes every manner of written statement under oath or  
17 affirmation.

18 11. "Federal poverty guidelines" means the poverty guidelines as  
19 updated annually in the federal register by the United States department of  
20 health and human services.

21 12. "Grantee" includes every person to whom an estate or interest in  
22 real property passes, in or by a deed.

23 13. "Grantor" includes every person from or by whom an estate or  
24 interest in real property passes, in or by a deed.

25 14. "Includes" or "including" means not limited to and is not a term of  
26 exclusion.

27 15. "Inhabitant" means a resident of a city, town, village, district,  
28 county or precinct.

29 16. "Issue" as used in connection with descent of estates includes all  
30 lawful, lineal descendants of the ancestor.

31 17. "Knowingly" imports only a knowledge that the facts exist that  
32 bring the act or omission within the provisions of the statute using such  
33 word. It does not require any knowledge of the unlawfulness of the act or  
34 omission.

35 18. "Magistrate" means an officer having power to issue a warrant for  
36 the arrest of a person charged with a public offense and includes the chief  
37 justice and judges of the supreme court, judges of the superior court,  
38 justices of the peace and police magistrates in cities and towns.

39 19. "Majority" or "age of majority" as used in reference to age of  
40 persons means ~~the age of~~ eighteen years **OF AGE** or more.

41 20. "Malice" and "maliciously" import a wish to vex, annoy or injure  
42 another person, or an intent to do a wrongful act, established either by  
43 proof or presumption of law.

44 21. "Mentally ill person" includes an idiot, an insane person, a  
45 lunatic or a person non compos.

- 1           22. "Minor" means a person under ~~the age of~~ eighteen years OF AGE.  
2           23. "Minor children" means persons under ~~the age of~~ eighteen years OF  
3 AGE.  
4           24. "Month" means a calendar month unless otherwise expressed.  
5           25. "Neglect", "negligence", "negligent" and "negligently" import a  
6 want of such attention to the nature or probable consequence of the act or  
7 omission as a prudent man ordinarily bestows in acting in his own concerns.  
8           26. "Nighttime" means the period between sunset and sunrise.  
9           27. "Oath" includes an affirmation or declaration.  
10          28. "Peace officers" means sheriffs of counties, constables, marshals,  
11 policemen of cities and towns, commissioned personnel of the department of  
12 public safety, personnel who are employed by the state department of  
13 corrections and the department of juvenile corrections AND who have received  
14 a certificate from the Arizona peace officer standards and training board,  
15 peace officers who are appointed by a multicounty water conservation district  
16 and who have received a certificate from the Arizona peace officer standards  
17 and training board, police officers who are appointed by community college  
18 district governing boards and who have received a certificate from the  
19 Arizona peace officer standards and training board, police officers who are  
20 appointed by the Arizona board of regents and who have received a certificate  
21 from the Arizona peace officer standards and training board and police  
22 officers who are appointed by the governing body of a public airport pursuant  
23 to section 28-8426 and who have received a certificate from the Arizona peace  
24 officer standards and training board.  
25          29. "Person" includes a corporation, company, partnership, firm,  
26 association or society, as well as a natural person. When the word "person"  
27 is used to designate the party whose property may be the subject of a  
28 criminal or public offense, the term includes the United States, this state,  
29 or any territory, state or country, or any political subdivision of this  
30 state that may lawfully own any property, or a public or private corporation,  
31 or partnership or association. When the word "person" is used to designate  
32 the violator or offender of any law, it includes corporation, partnership or  
33 any association of persons.  
34          30. "Personal property" includes money, goods, chattels, dogs, things  
35 in action and evidences of debt.  
36          31. "Population" means the population according to the most recent  
37 United States decennial census.  
38          32. "Process" means a citation, writ or summons issued in the course of  
39 judicial proceedings.  
40          33. "Property" includes both real and personal property.  
41          34. "Real property" is coextensive with lands, tenements and  
42 hereditaments.  
43          35. "REGISTERED DOMESTIC PARTNER" MEANS EITHER PARTY TO A RELATIONSHIP  
44 THAT IS REGISTERED PURSUANT TO TITLE 12, CHAPTER 21.  
45          ~~35.~~ 36. "Registered mail" includes certified mail.

~~36.~~ 37. "Seal" as used in reference to a paper issuing from a court or public office to which the seal of such court or office is required to be affixed means an impression of the seal on that paper, an impression of the seal affixed to that paper by a wafer or wax, a stamped seal, a printed seal, a screened seal or a computer generated seal.

~~37.~~ 38. "Signature" or "subscription" includes a mark, if a person cannot write, with the person's name written near it and witnessed by a person who writes the person's own name as witness.

39. "SPOUSE" INCLUDES A REGISTERED DOMESTIC PARTNER.

~~38.~~ 40. "State", as applied to the different parts of the United States, includes the District of Columbia, this state and the territories.

~~39.~~ 41. "Testify" includes every manner of oral statement under oath or affirmation.

~~40.~~ 42. "United States" includes the District of Columbia and the territories.

~~41.~~ 43. "Vessel", as used in reference to shipping, includes ships of all kinds, steamboats, steamships, barges, canal boats and every structure adapted to navigation from place to place for the transportation of persons or property.

~~42.~~ 44. "Wilfully" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or believes that the person's conduct is of that nature or that the circumstance exists.

~~43.~~ 45. "Will" includes codicils.

~~44.~~ 46. "Workers' compensation" means workmen's compensation as used in article XVIII, section 8, Constitution of Arizona.

~~45.~~ 47. "Writ" signifies an order or precept in writing issued in the name of the state or by a court or judicial officer.

~~46.~~ 48. "Writing" includes printing.

Sec. 3. Section 8-103, Arizona Revised Statutes, is amended to read:

8-103. Who may adopt

Any adult resident of this state, whether married, unmarried or legally separated, is eligible to qualify to adopt children. A husband and wife may jointly adopt children. **EITHER SPOUSE MAY ADOPT THE CHILDREN OF THE OTHER SPOUSE.**

Sec. 4. Title 12, Arizona Revised Statutes, is amended by adding chapter 21, to read:

#### CHAPTER 21

#### REGISTERED DOMESTIC PARTNERSHIPS

#### ARTICLE 1. GENERAL PROVISIONS

#### 12-3001. Definitions

**IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:**

1. "CERTIFICATE OF REGISTERED DOMESTIC PARTNERSHIP" MEANS A DOCUMENT THAT CERTIFIES THAT THE PERSONS NAMED ON THE CERTIFICATE HAVE REGISTERED A DOMESTIC PARTNERSHIP IN THIS STATE PURSUANT TO THIS CHAPTER.

1           2. "DOMESTIC PARTNERSHIP" MEANS THAT TWO ELIGIBLE PERSONS HAVE  
2 ESTABLISHED A CONTRACTUAL RELATIONSHIP PURSUANT TO THIS CHAPTER AND ARE  
3 SUBJECT TO THE RESPONSIBILITIES AND BENEFITS THAT ARE PRESCRIBED BY SECTION  
4 12-3003.

5           3. "PARTY TO A REGISTERED DOMESTIC PARTNERSHIP" MEANS A PERSON WHO HAS  
6 REGISTERED PURSUANT TO THIS CHAPTER.

7           12-3002. Requirements for a valid registered domestic  
8 partnership; filing fee

9           A. TWO PERSONS WHO MEET ALL OF THE FOLLOWING REQUIREMENTS MAY ENTER  
10 INTO A REGISTERED DOMESTIC PARTNERSHIP:

11           1. ARE AT LEAST EIGHTEEN YEARS OF AGE.

12           2. ARE NOT RELATED BY BLOOD IN A WAY THAT WOULD DISQUALIFY THEM  
13 PURSUANT TO TITLE 25.

14           3. ARE NOT MARRIED PURSUANT TO TITLE 25.

15           4. ARE COMPETENT TO ENTER INTO A CONTRACT.

16           5. SUBMIT A NOTARIZED AND SIGNED AFFIDAVIT TO THE CLERK OF THE  
17 SUPERIOR COURT IN EITHER THEIR COUNTY OF RESIDENCE OR IN MARICOPA OR PIMA  
18 COUNTY THAT IS PROVIDED BY THE CLERK AND THAT STATES EACH APPLICANT'S NAME,  
19 AGE AND RESIDENTIAL ADDRESS. THE APPLICANTS SHALL PROVIDE THEIR SOCIAL  
20 SECURITY NUMBERS TO THE CLERK SEPARATELY FROM THE AFFIDAVIT. THE CLERK SHALL  
21 FILE THE AFFIDAVIT AND ISSUE A CERTIFICATE OF REGISTERED DOMESTIC PARTNERSHIP  
22 TO THE APPLICANTS.

23           B. THE FILING FEE REQUIREMENTS OF THIS TITLE FOR FILING A LICENSE  
24 PURSUANT TO TITLE 25 APPLY TO THE REQUIREMENTS OF THIS SECTION.

25           12-3003. Responsibilities and benefits of parties to a  
26 registered domestic partnership

27           EACH PARTY TO A REGISTERED DOMESTIC PARTNERSHIP IS CONSIDERED TO BE  
28 RELATED BY LAW AND HAS THE SAME RESPONSIBILITIES AND BENEFITS RELATING TO THE  
29 OTHER REGISTERED DOMESTIC PARTNER AS EACH PARTY TO A MARRIAGE ENTERED INTO  
30 PURSUANT TO TITLE 25, INCLUDING:

31           1. COMMUNITY PROPERTY IN THE SAME MANNER AS PRESCRIBED BY TITLE 25,  
32 CHAPTER 2.

33           2. INHERITANCE AS PRESCRIBED BY SECTION 14-2102.

34           3. APPOINTMENT AS A PERSONAL REPRESENTATIVE AS PRESCRIBED BY SECTION  
35 14-3203.

36           4. GUARDIANSHIP AS PRESCRIBED BY SECTION 14-5311.

37           5. CONSERVATORSHIP AS PRESCRIBED BY SECTION 14-5410.

38           6. LIFE INSURANCE AS PRESCRIBED BY SECTION 20-1104.

39           7. BURIAL AS PRESCRIBED BY SECTION 36-831.

40           8. CREMATION AS PRESCRIBED BY SECTION 32-1365.02.

41           9. ADOPTION AS PRESCRIBED BY SECTION 8-103.

42           12-3004. Modification of terms

43           PARTIES TO A REGISTERED DOMESTIC PARTNERSHIP MAY MODIFY THE TERMS OF  
44 THEIR REGISTERED DOMESTIC PARTNERSHIP IN THE SAME MANNER AND TO THE SAME  
45 EXTENT AS PERSONS WHO EXECUTE PREMARITAL AGREEMENTS PURSUANT TO TITLE 25.

12-3005. Dissolution of a registered domestic partnership: fees

A. A REGISTERED DOMESTIC PARTNERSHIP MUST BE DISSOLVED IN THE SAME MANNER AS PRESCRIBED UNDER TITLE 25, CHAPTER 3.

B. THE FILING FEE REQUIREMENTS OF THIS TITLE RELATING TO DOMESTIC RELATIONS ACTIONS APPLY TO THE DISSOLUTION OF A REGISTERED DOMESTIC PARTNERSHIP.

12-3006. Formalization; right of nonparticipation

A. THIS ARTICLE DOES NOT REQUIRE ANY RELIGIOUS ORGANIZATION TO PARTICIPATE IN FORMALIZING A REGISTERED DOMESTIC PARTNERSHIP.

B. PERSONS LISTED IN SECTION 25-124 MAY FORMALIZE A REGISTERED DOMESTIC PARTNERSHIP.

Sec. 5. Section 20-1104, Arizona Revised Statutes, is amended to read:

20-1104. Insurable interest with respect to personal insurance; definition

A. Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. ~~But~~ No person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives, or to a person having, at the time when the contract was made, an insurable interest in the individual insured.

B. If the beneficiary, assignee or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

C. "Insurable interest" with reference to personal insurance includes only interests as follows:

1. In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection. FOR THE PURPOSES OF THIS PARAGRAPH, "RELATED CLOSELY BY BLOOD OR BY LAW" INCLUDES PERSONS WHO ARE IN A REGISTERED DOMESTIC PARTNERSHIP.

2. In the case of other persons, a lawful and substantial economic interest in having the life, health or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured.

3. An individual party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a closed corporation or of an interest in the shares, has an insurable interest in the life of each individual party to the contract and for the purposes of the contract only, in addition to any insurable interest which may otherwise exist as to the life of the individual.



1           4. A charitable organization as provided in section 43-1201, paragraph  
 2 ~~4,~~ which has a policy ownership interest has an insurable interest in the  
 3 life of each proposed insured who joins with the charitable organization in  
 4 applying for a life insurance policy naming the charitable organization as  
 5 owner and irrevocable beneficiary.

6           Sec. 6. Section 36-3231, Arizona Revised Statutes, is amended to read:

7           36-3231. Surrogate decision makers; priorities; limitations

8           A. If an adult patient is unable to make or communicate health care  
 9 treatment decisions, a health care provider shall make a reasonable effort to  
 10 locate and shall follow a health care directive. A health care provider  
 11 shall also make a reasonable effort to consult with a surrogate. If the  
 12 patient has a health care power of attorney that meets the requirements of  
 13 section 36-3221, the patient's designated agent shall act as the patient's  
 14 surrogate. However, if the court appoints a guardian for the express purpose  
 15 of making health care treatment decisions, that guardian shall act as the  
 16 patient's surrogate. If neither of these situations applies, the health care  
 17 provider shall make reasonable efforts to contact the following individual or  
 18 individuals in the indicated order of priority, who are available and willing  
 19 to serve as the surrogate, who then have the authority to make health care  
 20 decisions for the patient and who shall follow the patient's wishes if they  
 21 are known:

22           1. The patient's spouse, unless the patient and spouse are legally  
 23 separated **OR THE PATIENT AND THE PATIENT'S REGISTERED DOMESTIC PARTNER HAVE**  
 24 **LEGALLY ENDED THEIR DOMESTIC PARTNERSHIP.**

25           2. An adult child of the patient. If the patient has more than one  
 26 adult child, the health care provider shall seek the consent of a majority of  
 27 the adult children who are reasonably available for consultation.

28           3. A parent of the patient.

29           4. If the patient is unmarried, the patient's domestic partner **IF THE**  
 30 **PATIENT AND THE DOMESTIC PARTNER HAVE NOT REGISTERED AND** if no other person  
 31 has assumed any financial responsibility for the patient.

32           5. A brother or sister of the patient.

33           6. A close friend of the patient. For the purposes of this paragraph,  
 34 "close friend" means an adult who has exhibited special care and concern for  
 35 the patient, who is familiar with the patient's health care views and desires  
 36 and who is willing and able to become involved in the patient's health care  
 37 and to act in the patient's best interest.

38           B. If the health care provider cannot locate any of the people listed  
 39 in subsection A of this section, the patient's attending physician may make  
 40 health care treatment decisions for the patient after the physician consults  
 41 with and obtains the recommendations of an institutional ethics committee. If  
 42 this is not possible, the physician may make these decisions after consulting  
 43 with a second physician who concurs with the physician's decision. For the  
 44 purposes of this subsection, "institutional ethics committee" means a

1 standing committee of a licensed health care institution appointed or elected  
2 to render advice concerning ethical issues involving medical treatment.

3 C. A person who makes a good faith medical decision pursuant to this  
4 section is immune from liability to the same extent and under the same  
5 conditions as prescribed in section 36-3205.

6 D. A surrogate who is not the patient's agent or guardian shall not  
7 make decisions to withdraw the artificial administration of food or fluid.

8 E. A surrogate may make decisions about mental health care treatment  
9 on behalf of a patient if the patient is found incapable. However, a  
10 surrogate who is not the patient's agent or guardian shall not make decisions  
11 to admit the patient to a level one behavioral health facility licensed by  
12 the department of health services, except as provided in subsection F of this  
13 section or section 14-5312.01, 14-5312.02 or 36-3281.

14 F. If the admitting officer for a mental health care provider has  
15 reasonable cause to believe after examination that the patient is incapable  
16 as defined in section 36-3281, ~~subsection D~~ and is likely to suffer serious  
17 physical harm or serious illness or to inflict serious physical harm on  
18 another person without immediate hospitalization, the patient may be admitted  
19 for inpatient treatment in a level one behavioral health facility based on  
20 informed consent given by any surrogate identified in subsection A of this  
21 section. The patient shall be discharged if a petition for court ordered  
22 evaluation or for temporary guardianship requesting authority for the  
23 guardian to consent to admission to a level one behavioral health facility  
24 has not been filed within forty-eight hours of admission or on the following  
25 court day if the forty-eight hours expires on a weekend or holiday. The  
26 discharge requirement prescribed in this section does not apply if the  
27 patient has given informed consent to voluntary treatment or if a mental  
28 health care provider is prohibited from discharging the patient under federal  
29 law.